

# **Exhibit D**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS

BAYER CROPSCIENCE LP and  
MONSANTO TECHNOLOGY LLC,

Plaintiffs,

v.

Case No. 5:21-cv-00070-H

TEDDY WILLIS,

Defendant.

**DECLARATION OF DR. FRITZ KOPPASCHEK**

I, DR. FRITZ KOPPASCHEK, hereby declare as follows:

1. My name is Dr. Fritz Koppatschek. I am over the age of 18 years and I am a resident of the state of South Dakota. I am of sound mind. I am the President of ABG Ag Services, Inc. ("ABG") with locations in Indiana and South Dakota. I have a Bachelor of Science degree in Agronomy from Ohio State University (1983) and a Masters of Science degree in Agronomy from the University of Illinois (1987). I received a Ph.D. in Agronomy from the University of Illinois (1989). The statements that I am making in this Declaration are from my own personal, first-hand knowledge. I am competent to make the statements in this Declaration and these are the same statements that I would make if I were called as a witness to testify in court in this matter.

2. ABG was retained by the law firm of Thompson Coburn LLP to conduct an inspection and collect samples of cotton seed from Teddy Willis's facility in Slaton, Texas. I led that sampling and inspection and have routinely led samplings and inspections including of seed companies, farming operations, fields, bulk containers, farming equipment, and storage facilities.

3. The sampling and inspection of Teddy Willis's facility in Slaton, Texas took place on April 29, 2021. I used a seed probe to collect the samples from mini bulk seed containers. A seed probe is a specialized cylindrical tool designed to sample seed. It is inserted into the seed container

closed and, once in the seed container, is rotated open to allow seed to flow into holes at various depths in the probe. I probed multiple areas of each mini bulk container. All of the samples from an individual mini bulk container were combined and placed into a gallon Ziploc bag, labeled with each ABG sample number and other sample identifying information.

4. Using a seed probe for loose, fuzzy seed is not practical. For those samples, I collected random samples from the seed piles by hand.

5. During the inspection and sampling, some of the mini bulk seed containers and other seed at the facility were identified to ABG by Mr. Willis or counsel for the parties during the inspection as coming from Seth Fortenberry. Those samples were assigned ABG sample numbers 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, and 59. I understand Mr. Willis testified ABG samples 80, and 81 also came from Mr. Fortenberry (collectively samples 32-52, 59, 80, and 81 are referred to as the "Fortenberry Samples"). Each of samples 32-52 correspond with a full mini bulk seed container. This seed was already delinted. Sample 59 was a pile of fuzzy seed in the corner of Barn 1 of Mr. Willis's facility. Samples 80 and 81 were from trailers of fuzzy seed.

6. Some of the mini bulk seed containers contained seed that was commercially uniform in size and free of harvest debris. Other mini bulk seed containers contained immature, irregular sized seed and harvest debris, which is the result of the seed cleaning process. This unplantable byproduct of the cleaning process is typically referred to as "trash" or "culls."

7. When the sampling was completed on April 29, 2021, I placed each of the labeled, sealed Ziploc bags into a box and delivered that box to Federal Express for delivery to ABG's facility in Indiana. Those samples subsequently were received by ABG's Indiana facility and preserved at that location.

8. On June 16, 2021, a portion of Samples 59, 80, and 81 were transferred to a Bayer facility in Lubbock, Texas for delinting. The remaining portions of Samples 59, 80, and 81 were

retained by ABG in Indiana. Once the fuzzy seed was delinted, the Bayer facility in Lubbock returned the now-delinted seed from Samples 59, 80, and 81 to ABG in Indiana.

9. ABG transferred seed from each of the Fortenberry Samples to Bayer for testing.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 5/30/2022.



**DR. FRITZ KOPPATSCHKEK**